IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.346 OF 2005

Ramchandra Virupaksha Deshmane,
since deceased through LRs. Petitioners

versus

Anandrao Laxman Jadhav, since
deceased through LRs. Respondents

Shri N.J.Patil for petitioners.
Shri Amit Borkar for respondent no.1a.
Shri D.A.Patil, AGP for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 27th January 2006

PC :

1. Heard learned counsel for parties.

2. On 23rd January 2006 I had passed an order in Writ Petition Nos.9198 of 2005 and 9336 of 2005. Facts and circumstances in the present case are similar to that of Writ Petition Nos.9198 of 2005 and 9336 of 2005. In the present petition also the Divisional Commissioner, Pune has not considered petitioner's appeal in proper perspective being an appellate authority. It appears that Divisional Commissioner has predetermined the issues and he has passed two to three orders already against the petitioners. It

is settled principle that justice must not only be done but seen to be done. Honouring that principle, I direct that the appeal shall be heard by the Divisional Commissioner, Mumbai on merits and in accordance with law uninfluenced by any observations made in the orders dated 29.4.2005 and 30.11.2005.

3. All contentions on merits of the matter are expressly kept open and this Court has not gone into the same but has set aside the orders under challenge only because an obligation cast on the Appellate Authority in law has not been followed.

4. Parties to appear before the Divisional Commissioner, Mumbai on 7th February 2006 and the Appellate Authority shall endeavour to dispose of these appeals on merits and in accordance with law, after hearing parties, within a period of three weeks from the date of their appearance. No order as to costs. Records of pending appeals, which are in the office of Divisional Commissioner, Pune, shall be transmitted and made available for the Divisional Commissioner, Mumbai on the date fixed for appearance of parties.

(S.C.DHARMADHIKARI, J.)